

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

PATRICK JOSEPH MULKERN, Plaintiff, -against- NEW YORK STATE POLICE, et al., Defendant.	X : : : : : : X	08 Civ. 8870 (HB)(LMS) ORDER
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Hon. HAROLD BAER, JR., District Judge:

Plaintiff Patrick Joseph Mulkern, a former New York State Police Officer, brings this action for discrimination and retaliation based on disability. Defendants filed motions to dismiss, claiming that the action was time barred. Plaintiff requested a hearing on the issue of equitable tolling of the applicable statute of limitations based on Plaintiff's mental disability. Magistrate Judge Smith issued a Report and Recommendation ("R & R"), in which she recommends that Plaintiff is not entitled to equitable tolling, and concludes that the action should be dismissed with prejudice. No objections were filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations" of a magistrate judge. 28 U.S.C. § 636(b)(1); *New York Dist. Council of Carpenters Pension Fund v. Perimeter Interiors, Inc.*, 657 F. Supp. 2d 410, 414 (S.D.N.Y. 2009). This Court reviews *de novo* those parts of the R&R to which objections are made, and reviews the remainder for clear error. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *Perimeter Interiors*, 657 F. Supp. 2d at 414.

After reviewing Magistrate Judge Smith's R & R, to which no objection was filed, this Court concludes that there is no clear error. Accordingly, this Court approves, adopts, and ratifies Magistrate Judge Smith's R & R in its entirety.

IT IS SO ORDERED.

New York, New York
January 12, 2011



HAROLD BAER, JR.
United States District Judge